

Appl. No. 10/602,489
Amdt. dated February 24, 2010
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 1797

PATENT

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 7A. This sheet, which includes Fig. 7A replaces the replacement sheet including Fig. 7A filed on October 3, 2007.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

In the Office Action, claims 14, 15, 18-26, 28-31 and 34-40 are rejected under 35 § U.S.C. 103(a) as being unpatentable over Van Dam et al. (US2003/0008411) in view of Quake et al. (US 2002/0037499).

Claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Dam et al. in view of Quake et al. as applied to claims 14, 15, 18-26, 28-31 and 34-37, and further in view of Raillard et al. (US 2002/0102577).

Drawings

FIG. 7A is hereby amended to correct a typographical error found in the replacement drawings filed on October 3, 2007. Support for reference number 724B is found in the drawings as originally filed.

Claim Rejections – 35 U.S.C. 103(a)

Applicant respectfully submits that the pending rejection of at least claim 38 is improper under MPEP 2143.03. Accordingly, Applicant respectfully request the withdrawal of the pending rejection of at least claim 38 and the issuance of a new Office Action providing a proper rejection of at least claim 38.

MPEP 2413.03 requires that "All words in a claim must be considered in judging the patentability of that claim against the prior art." In the present Office Action, the elements of claim 38 are not discussed by the Examiner or taught or suggested by either the primary reference (Van Dam) or the secondary reference (Quake). For at least these reasons, the pending rejection is improper and should be withdrawn.

Although Applicants have carefully reviewed the pending Office Action, Applicants have been unable to find a discussion by the Examiner of at least the elements recited by claim 38. On page 3 of the pending Office Action, the Examiner points to paragraphs [0068] and [0069] of Van Dam as teaching that the "control channels also act as a pump when they are actuated sequentially to facilitate the flow of fluids through the flow channels." Paragraph

[0069] of Van Dam, does, in fact, discuss peristaltic pumping. However, the Examiner's reference to peristaltic pumping and the statement that control channels act as a pump does not teach or suggest the elements recited by claim 38.

Claim 38 recites "the first valve of the set of loop forming control valves comprises a control channel of the pump," among other elements. As shown in the embodiment illustrated in FIG. 7A, valve 724B serves as both a first valve of the set of loop forming control valves and also as a control channel of the pump 732. Van Dam's discussion of peristaltic pumping does not teach or suggest the functionality provided by embodiments of the present invention or the particular elements recited by claim 38.

Therefore, despite the Examiner's discussion of peristaltic pumping, Van Dam does not teach or suggest at least a first valve of the set of loop forming control valves that comprises a control channel of the pump as recited by claim 38. Because the Examiner fails to address the claim elements recited by claim 38, the pending rejection is improper under MPEP 2143.03 and should be withdrawn. Accordingly, Applicant respectfully requests the issuance of a new Office Action in compliance with MPEP 2143.03.

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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

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